

## REMARKS

### A. Overview

The present application includes claims 13-24. With this Amendment, Applicant has added claims 33-40. As such, claims 13-24 and 33-40 are pending in this application.

### B. Objections

The Examiner objected to claim 15 and suggested changing the word “are” to the word “is” for grammatical correctness. With this Amendment, Applicant has amended claim 15 as suggested by the Examiner. Accordingly, Applicant respectfully requests the Examiner remove the objection.

### C. Claim Rejections under 35 U.S.C. §103

The Examiner rejected claims 13-16, 18, 23, and 24 under 35 U.S.C. §103 as being unpatentable over US Patent No. 5,746,236 to Tilsley et al (“Tilsley”) in view of British Patent No. GB2,127,705 to Connolly (“Connolly”). The rejected claims include independent claim 13 from which the remainder of the claims depend. Tilsley is directed to a KNEE CRUTCH. Connolly is directed to an INVALID’S WALKING FRAME.

Applicant submits that regardless of the features of Tilsley and Connolly, there is no teaching, suggestion or motivation in either Tilsley or Connolly to combine Tilsley and Connolly to produce the apparatus as recited in claim 1. The motivation stated by the Examiner in the Office Action is addressed below.

Tilsley discloses a knee crutch having a handle 12, a knee support 26, and a plurality of feet (see Fig. 1). Referring to the text of Tilsley it appears that the knee crutch is designed to operate in modes. First, a walking mode. Second, a standing mode. Referring to the Abstract, Tilsley recites

A knee crutch for supporting a patient, comprising a knee receptacle, one or more legs, an upright and a handle, **allowing the patient to walk by grasping the handle and moving the knee crutch and injured knee forward, and to stand with hands free, by resting the abdomen against the handle.**

(Tilsley, Abstract) (emphasis added)

Turning to the Summary of the Invention, Tilsley recites

In a first aspect, the present invention provides a knee crutch comprising a knee support, at least three base portions, at least one upright portion, at least one handle, wherein the base portion, upright portion and handle portion are sized and oriented so the knee rests in the knee portion and the handle portion rests longitudinally substantially across the abdomen when the patient is in a standing position, **allowing the patient to both stand and walk with the knee supported.**

(Tilsley, col. 1, lns. 33-41) (emphasis added)

Turning to the Detailed Description of Preferred Embodiment(s), Tilsley recites

The knee crutch 10 can be used in a number of ways. It can serve as a **stationary support when the user needs to stand while waiting or performing tasks.** The combination of the four legs (18, 20, 22 and 24), which hold the unit steady, and the handle 12 resting against the patient's abdomen, which **provides support** for the patient and eliminates the need for gripping the handle 12, **liberates the hands for other tasks.**

When the knee crutch 10 is used for walking ....

(Tilsley, col. 4, lns. 9-17) (emphasis added).

Connolly discloses a walking frame including a handle unit 10, a rest arrangement 12, and a foot unit 18. Ferrules 31 are provided on foot unit 18.

Referring to pages 3 and 4 of the Office Action, the Examiner states that "Tilsley et al. does not disclose a plurality of wheels coupled to the frame. Connolly discloses a walker/cart wherein a plurality of wheels (50) can be coupled to the frame (10)." The Examiner further states that "the motivation for [attaching a plurality of wheels to the frame disclosed in Tilsley] ... would have been to allow the cart to be tilted and rolled forward to provide easier forward movement, as opposed to lifting the entire crutch/cart off the ground to move forward (See [Tilsley] col. 3, lines 35+)."

Applicants submit that there is no motivation to place wheels on the knee crutch of Tilsley as suggested by the Examiner. Placing wheels on the knee crutch of Tilsley would produce an unstable knee crutch in both modes of operation, walking and standing. In the walking mode, the wheels would not provide a stable crutch, especially if the knee crutch is tilted during forward movement as suggested by the Examiner. In the standing mode, the wheels would not provide a stable crutch and also would probably render the knee crutch unable to provide support while still permitting the hands to be free for other tasks. As such, the proposed combination would hinder or destroy the ability for the knee crutch of Tilsley to operate one or both of its two modes of operation, the walking mode and the standing mode.

Therefore, Applicant submits that one of ordinary skill in the art would find no suggestion, motivation, or teaching to combine the wheels of Connolly with the knee crutch of Tilsley. On the contrary, one of ordinary skill in the art would be dissuaded from such a combination at least due to the increased instability of the knee crutch in both modes of operation, walking and standing, and the inability to continue to have the hands free for other tasks in the standing mode of operation. For at least these reasons, Applicants submit that the combination of Tilsley and Connolly is improper.

For at least these reasons, Applicant submits that the cart for an injured person as recited in independent claim 13 is in condition for allowance. Further, Applicant submits that claims 14-16, 18, 23, and 24 which depend from claim 13 are in condition for allowance at least for the reasons given above in connection with claim 13 and for the further limitations of claims 14-16, 18, 23, and 24.

The Examiner rejected claims 17, 19, and 20 under 35 U.S.C. §103 as being unpatentable over Tilsley in view of Connolly as applied to claims 13-15 and in further view of US Patent No. 5,411,035 to Stone ("Stone"). The rejected claims depend from independent claim 13. Applicant submits that claims 17, 19, and 20 which depend from claim 13 are in condition for allowance at least for the reasons given above in connection with claim 13 and for the further limitations of claims 17, 19, and 20.

The Examiner rejected claims 21 and 22 under 35 U.S.C. §103 as being unpatentable over Tilsley in view of Connolly as applied to claims 13, 14 and 16 and in further view of US Patent No. 5,323,664 to Fairfield ("Fairfield"). The rejected claims depend from independent claim 13. Applicant submits that claims 21 and 22 which depend from claim 13 are in condition for allowance at least for the reasons given above in connection with claim 13 and for the further limitations of claims 21 and 22.

#### D. New Claims

With this amendment Applicant has added new claims 33-40 which depend from independent claim 13. Consideration and allowance of these claims is respectfully requested.


#### E. Final Remarks

Claims 13-24 and 33-40 are believed to be in condition for allowance. Such allowance is respectfully requested.

If necessary, please consider this a Petition for Extension of Time to affect a

timely response. Please charge any additional fees or credits to the account of Bose McKinney & Evans, LLP Deposit Account No. 02-3223. In the event that there are any questions related to these amendments or to the application in general, the undersigned would appreciate the opportunity to address those questions directly in a telephone interview to expedite the prosecution of this application for all concerned.

Respectfully submitted,  
BOSE McKINNEY & EVANS LLP

  
William S. Meyers  
Reg. No. 42,884

Indianapolis, Indiana  
(317) 684-5273  
554208v1